

CAUSE NO. 2021-300

JESUS CHRIST OPEN ALTAR	§	
CHURCH, LLC ,	§	IN THE DISTRICT COURT
	§	
vs.	§	
	§	
CITY OF HAWKINS, ALVIN FLYNN,	§	402ND JUDICIAL DISTRICT
DONNAJORDAN, MIKE MAYBERRY,	§	
TOM PARKER, HOWARD COQUAT,	§	
WAYNE KIRKPATRICK, NORMAN	§	
OGLESBY, CODY JORGENSEN AND,	§	
STEPHEN LUCAS,	§	
Defendants.	§	WOOD COUNTY, TEXAS

DEFENDANTS' ORIGINAL ANSWER AND DEFENSES

NOW COMES CITY OF HAWKINS, TEXAS ALVIN FLYNN, DONNA JORDAN, MIKE MAYBERRY, TOM PARKER, HOWARD COQUAT, WAYNE KIRKPATRICK, NORMAN OGLESBY, CODY JORGENSEN and STEPHEN LUCAS, Defendants in the above-entitled and numbered cause of action, and file this their Original Answer and Defenses, and would respectfully show unto the Court as follows:

I.

ORIGINAL ANSWER

1. Defendants CITY OF HAWKINS, TEXAS, ALVIN FLYNN, DONNA JORDAN, MIKE MAYBERRY, TOM PARKER, HOWARD COQUAT, WAYNE KIRKPATRICK, NORMAN OGLESBY, CODY JORGENSEN and STEPHEN LUCAS generally deny each and every, all and singular, the allegations contained in Plaintiff's First Amended Petition and demand strict proof of same.

II.

DEFENSES

2. The City of Hawkins would show that Plaintiff's causes of action against the City of

Hawkins, Texas are barred by governmental and/or sovereign immunity, as the City of Hawkins is not liable for the alleged acts under any theory of respondent superior.

3. The City of Hawkins pleads that Plaintiff has failed to invoke the jurisdiction of this Honorable Court. Specifically, Plaintiff has failed to state a claim for which sovereign and/or governmental immunity has been waived and, thus, has failed to state a claim for which relief can be granted.

4. Plaintiff's claims against Defendants are barred because Plaintiff cannot establish, and Defendants deny, that any violation of Plaintiff's Constitutional rights occurred.

5. The City of Hawkins is entitled to sovereign immunity from the Constitutional allegations in Plaintiff's First Amended Petition in accordance with the standards set forth in *Monell*.

6. The City of Hawkins pleads that no policy, custom or practice of the City of Hawkins, Texas was a cause of any violation of Plaintiff's Constitutional rights. Further, there was no deliberate indifference by the City of Hawkins.

7. Plaintiff cannot establish, and Defendants deny, that any policy, custom or practice of the City of Hawkins was the moving force behind any alleged Constitutional violation.

8. Defendant City of Hawkins, Texas is not liable to Plaintiff for any punitive and/or exemplary damages as a matter of law.

9. With respect to any state law claim asserted by Plaintiff, Defendants plead all available and applicable defenses under the Texas Tort Claims Act, including, but not limited to, the limitation of liability under section 101.023 and 101.024 of the Texas Civil Practice and Remedies Code and the Election of Remedies. See Tex. Civ. Prac. & Rem. Code §101.001-§101-109. Further, Defendants plead the limitations set forth in section 101.057.

10. To the extent Plaintiff asserts any state law claims outside the strict waiver of immunity under the Texas Tort Claims Act, Defendants plead that such claims are barred by the doctrine of sovereign and governmental immunity.

11. Defendants plead that Defendants Alvin Flynn, Donna Jordan, Mike Mayberry, Tom Parker, Howard Coquat, Wayne Kirkpatrick, Norman Oglesby, Cody Jorgenson and Stephen Lucas have both official and qualified immunity to the claims and causes of action asserted by Plaintiff.

12. Defendants plead that Defendants Tom Parker, Howard Coquat, Wayne Kirkpatrick, Norman Oglesby, Cody Jorgenson and Stephen Lucas have legislative immunity to the claims and causes of action asserted by Plaintiff.

13. Defendants Alvin Flynn, Donna Jordan, Mike Mayberry, Tom Parker, Howard Coquat, Wayne Kirkpatrick, Norman Oglesby, Cody Jorgenson and Stephen Lucas deny that they are liable to Plaintiff for exemplary and/or punitive damages and, in the alternative, said Defendants invoke the provisions of Tex. Civ. Prac. & Rem. Code § 41.007 *et seq.*

14. Defendants Alvin Flynn, Donna Jordan, Mike Mayberry, Tom Parker, Howard Coquat, Wayne Kirkpatrick, Norman Oglesby, Cody Jorgenson and Stephen Lucas deny that they, in any way, acted with malice, consciously disregarded and/or were deliberately indifferent to the rights of Plaintiff.

15. Defendants Alvin Flynn, Donna Jordan, Mike Mayberry, Tom Parker, Howard Coquat, Wayne Kirkpatrick, Norman Oglesby, Cody Jorgenson and Stephen Lucas invoke the limitations on liability set forth in §108.001 *et. seq.* of Tex. Civ. Prac. & Rem. Code.

16. Defendants deny that Plaintiff has performed all conditions precedent to bringing this lawsuit.

17. Defendants seek recovery of all costs and attorney fees from Plaintiff pursuant to 42 U.S.C. 1988.

18. Defendants reserve the right to plead further.

WHEREFORE, PREMISES CONSIDERED, Defendants CITY OF HAWKINS, ALVIN FLYNN, DONNA JORDAN, MIKE MAYBERRY, TOM PARKER, HOWARD COQUAT, WAYNE KIRKPATRICK, NORMAN OGLESBY, CODY JORGENSEN and STEPHEN LUCAS pray for the Court to enter Judgment that Plaintiff take nothing; that the Court dismiss Plaintiff's First Amended Petition, and any amendments and supplements thereto, with prejudice; that the Court grant Defendants CITY OF HAWKINS, ALVIN FLYNN, DONNA JORDAN, MIKE MAYBERRY, TOM PARKER, HOWARD COQUAT, WAYNE KIRKPATRICK, NORMAN OGLESBY, CODY JORGENSEN and STEPHEN LUCAS its costs of court and expenses; and award Defendants CITY OF HAWKINS, ALVIN FLYNN, DONNA JORDAN, MIKE MAYBERRY, TOM PARKER, HOWARD COQUAT, WAYNE KIRKPATRICK, NORMAN OGLESBY, CODY JORGENSEN and STEPHEN LUCAS such other relief, at law or in equity, to which they may show themselves justly entitled.

Respectfully submitted,

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OGLESBY, CODY JORGENSEN AND
STEPHEN LUCAS

CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing instrument was served upon Plaintiff's counsel of record, as listed below, in the above entitled and numbered cause on July 27, 2021, in the following manner:

X Via Electronic Mail (at powerlaw2020@gmail.com) and

X Via CM/RRR: 7017 0190 0000 4789 8418
certified U.S. Mail at the following address:

William R. Power
1370 State Highway 276
Emory, Texas 75440

/s/ Darren K. Coleman
DARREN K. COLEMAN

Darren Coleman

From: no-reply@efilingmail.tylertech.cloud
Sent: Tuesday, July 27, 2021 9:32 AM
To: Darren Coleman
Subject: Notification of Service for Case: 2021-300, JESUS CHRIST OPEN ALTAR CHUCH, LLC VS. CITY OF HAWKINS, ALVIN FLYNN, DONNA JORDAN, MIKE MAYBERRY, TOM PARKER, HOWARD COQUAT, WAYNE KIRKPATRICK, NORMAN OGLESBY, CODY JORGENSEN AND STEPHEN LUCAS for filing Ans...



Notification of Service

Case Number: 2021-300
Case Style: JESUS CHRIST OPEN ALTAR CHUCH, LLC VS. CITY OF HAWKINS, ALVIN FLYNN, DONNA JORDAN, MIKE MAYBERRY, TOM PARKER, HOWARD COQUAT, WAYNE KIRKPATRICK, NORMAN OGLESBY, CODY JORGENSEN AND STEPHEN LUCAS
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Filed By	Traci McCraven
Service Contacts	City of Hawkins, Texas: Darren Coleman (darren.coleman@boonlaw.com) Other Service Contacts not associated with a party on the case: Traci McCraven (traci.mccraven@boonlaw.com)

	Jesus Christ Open Altar Church, LLC.: William Power (powerlaw2020@gmail.com)
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